

Inventor: PICKFORD ET AL  
Serial No.: 10/501,538  
Filing Date: 7/16/2004  
Examiner: Thomas C. Barrett  
Group Art Unit: 3738

### REMARKS

The Office action of May 1, 2006 has been carefully considered and the application has been amended in an effort to respond to the Examiner's helpful suggestions regarding claim formatting.

Claims 1, 4, 6, 8, 18 and 19 are present in the application. The claims have been reduced in number from 14 to 6.

Parent claim 1 has been amended by adding thereto the limitations of previously presented claims 2, 3 and 5. Thus, it is submitted that no new issues are presented. The effect of the amendments is that the invention is restricted to the type of surface layer described in the specific embodiment, that is to say a surface layer formed by anodizing (added to claim 1 from original claim 3). This surface layer will therefore consist of an oxide or a phosphate (dependent claim 4), depending on the electrolyte that is used for anodizing, and the layer grows from the metal (added to claim 1 from now cancelled claim 2) by anodizing (added to claim 1 from now cancelled claim 3). Clearly, this surface layer is not a metal coating formed by the process of electroplating known in the prior art. Biocidal silver ions are incorporated into this surface layer by ion exchange (page 5 line 16; and claims 6 and 18), so that the biocidal metal is present in the form of ions (added to claim 1 from now cancelled claim 5).


There are, consequently, clear distinctions from the patent to Ogle (US 6 113 636) which discloses an implant comprising silver as a biocidal metal, in which the silver is elemental (metallic) silver (claims 9, 10 and 15-20) or a silver compound of low solubility. Ogle is actually concerned with implants that contain "tissue" (claims 1-8 and 11-14), and he does not provide any

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description of how a biocidal metal might be applied to a metal substrate. For example, the specimens of Example 1 consist of porcine aortic tissue, while those of Example 2 are "porcine aortic leaflets, porcine aortic wall and bovine pericardium". In Example 1 elemental silver is formed by a reduction process (using formaldehyde to plate out the silver); in Example 2 elemental silver is formed by the effect of light to reduce the silver salt to silver metal. Since the patent is not concerned with metal substrates, it is perhaps not surprising that it does not suggest subjecting metal substrates to an anodizing process as recited in applicants' claims. Further, there is no teaching or suggestion in the Ogle patent for adsorbing biocidal metal ions into a surface layer integral with a metal substrate by an ion exchange process, as is defined in parent claim 1 and in claims 4, 6, 8, 18 and 19 depending therefrom.

In view of the foregoing, applicants respectfully submit that the claimed invention patentably distinguishes over the Ogle citation. Accordingly, reconsideration of the application is requested and allowance of the claims is courteously solicited.

Respectfully submitted,

  
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I hereby certify that this correspondence is being transmitted by facsimile this day to Examiner Thomas Barrett at the United States Patent and Trademark Office, Art Unit 3738, to fax No. 571-273-8300.

August 1, 2006

Date

Signature